

VIZR.10001

Patent Amendment

REMARKS

This application has been carefully reviewed in light of the Office Action dated July 2, 2004. Applicant has amended claims 1, 2, 3, 8, 11, 12, 13, and 18. Reconsideration and favorable action in this case are respectfully requested.

The Examiner has rejected claims 1-10, 12-20 and 24-26 under 35 U.S.C. §112, second paragraph. With regard to claims 1-10, the Examiner claims that the term "circuitry" is unclear. With regard to claims 2 and 12, the Examiner contends that it is unclear the phrase "sales, gratuity and investment preference information" refers to the same information as recited in claims 1 and 11, respectively. In claims 3 and 13, the Examiner states that the term account lacks antecedent basis. In claims 7 and 17, the Examiner contends that the term "said money" is confusing with regard to claim 5. In claim 18, the Examiner contends that it is unclear that the "investment providers" are the same as the "investment provider" of claim 1 and 11. In claims 10 and 20, the Examiner states that these claims are indefinite because they do not have a positive recitation of structure or manipulative step. In claim 24, the Examiner states that the second instance of "employer" is confusing. In claim 26, the Examiner states that "employees" and "investment amounts" should be preceded by "the".

With regard to claims 2 and 12, Applicants have amended the claims as suggested. With regard to claims 3 and 13, Applicants have amended the claims as suggested. With regard to claims 8 and 18, Applicants have amended claims 1, 8, 11, and 18 so that the proper antecedent basis is provided. With regard to claims 24 and 26, Applicants have amended the claims as suggested.

With regard to the rejection of claims 1-10, Applicants strongly disagree that the term "circuitry" is unclear in any way. The claims recite with specificity that the functions performed by each circuit. It is irrelevant how the exact manner in which the function is performed, whether it be implemented through software, firmware, or discrete

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circuitry, all of which are well known in the art. The functions of each circuit are described in detailed in the specification.

With regard to claims 7 and 17, "said money" is *not* recited in either claim. Further, neither claim 7 nor claim 17 is directly or indirectly dependent on either claims 5 or claim 15, respectively, and therefore there can be no confusion as to whether the "money" is the same in each claim.

With regard to claims 10 and 20, the positive recitation is the identification of each employee by an *employer-independent account identifier*.

The Examiner has also rejected claims 1, 3-11 and 13-26 under 35 U.S.C. §101 as being directed to non-statutory subject matter for lack of recitation of technology in the bodies of the claims. Applicants strongly disagree once again. The claims recite subject matter, in the bodies of the claims, which provides technology for allowing employees who receive at least a portion of their wages in gratuities to efficiently fund an investment account. This is clearly statutory subject matter. From a matter of reciting subject matter, Applicants see no difference between the recitation of subject matter in the present claims and the recitation of subject matter in the references cited by the Examiner, for example, the Tarbox reference. If the Examiner has specific problems with the claims, however, Applicants would be happy to revise the claims as appropriate.

The Examiner has also rejected claims 1-26 under 35 U.S.C. §102(e) as being unpatentable over U.S. Pat. No. 6,154,732 to Tarbox. Applicants have reviewed this reference in detail and does not believe that it discloses or makes obvious the invention as claimed.

With regard to claim 1, the Tarbox reference discloses a system for enabling individual employees to access independent professional money management for their funds in a way that avoids conflicts of interest. The Tarbox reference does not show

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employer management circuitry that performs *any* of the functions set forth in claim 1. It does not show any function for receiving sales and credit/debit gratuities, calculating settlement amounts or generating an investment database of investment amounts. Neither does the Tarbox reference show the function of receiving the investment database from the employee management circuitry. The sections cited by the Examiner (col. 11, lines 24-45 and col. 3, lines 54-67) are merely discussing the hardware used to *communicate investment advice* to the participant.

Applicants have reviewed the Tarbox patent in detail and can find no mention of any teaching that would determine investment amounts from the sales and credit/debit gratuities for each participating employee of an employer.

Therefore, Applicants respectfully request allowance of claim 1 and dependent claims 2-10.

For the same reasons set forth in connection with claim 1, Applicants respectfully request allowance of independent claim 11 and dependent claims 12-20.

With regard to independent claim 21, Applicant does not believe that Tarbox teaches the ability to seamlessly switch an individual accounts from a first employer to a second employer in the manner specified in this claim. The Tarbox reference merely teaches that the employee's social security number can be used as an *access code* to interactively complete a worksheet for specifying funding needs and risk tolerance. There is not teaching that the account of an employee can be associated with a new employer when the employee switches jobs.

Applicant respectfully requests allowance of claim 21 and dependent claims 22 – 23.

An extension of one month is requested and a Request for Extension of Time under § 1.136 with authorization to charge the fee to Deposit Account 01-1615.

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The Commissioner is hereby authorized to charge any fees or credit any overpayment, including extension fees, to Deposit Account No. 01-1615 of Anderson, Levine & Lintel, L.L.P.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Alan W. Lintel, Applicants' Attorney at (972) 664-9595 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



Alan W. Lintel
Attorney/Agent for Applicant(s)
Reg. No. 32478

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Anderson, Levine & Lintel
14785 Preston Rd.
Suite 650
Dallas, Texas 75254
Tel. (972) 664-9595